

AN ORDINANCE approving an Agreement
by and between Little Territories,
Inc. and the City of Fort Wayne,
Indiana, in connection with the Board
of Public Works, for Fallen Timbers
Section "C" Sanitary Sewer Extension.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement by and between Little
Territories, Inc. and the City of Fort Wayne, Indiana, in connec-
tion with the Board of Public Works, for Fallen Timbers Section
"C" Sanitary Sewer Extension, for:

The Agreement between Little Terri-
tories, Inc. and the City of Fort
Wayne, Indiana has been signed. This
sanitary sewer extension is more speci-
fically described below:

Commencing at an existing manhole in
Choctaw Pass at the east line of Lot 19
in Fallen Timbers Section "A"; thence,
north 100+ feet to MH #1; thence wes-
terly a 10' sanitary sewer easement
north and adjacent to Stockade Drive,
a distance of 345+ feet terminating
at a proposed MH #2;

no cost to the City is involved in this Agreement, all as more
particularly set forth in the Agreement and which is on file with
the Office of the Board of Public Works and is by reference in-
corporated herein, made a part hereof and is hereby in all things
ratified, confirmed and approved.

SECTION 2. Prior Approval is being requested from
Common Council on April 10, 1984.

SECTION 3. That this Ordinance shall be in full force
and effect from and after its passage and any and all necessary
approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Henry, seconded by Stur, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ .M., E.S.

DATE: 4-10-84 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Stur, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 4-24-84 Nadejda Esleroff
SANDRA E. KENNEDY, CITY CLERK
Chief Deputy

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. J-44-84 on the 24th day of April, 1984,

ATTEST: Nadejda Esleroff (SEAL) Ray A. Ebert
SANDRA E. KENNEDY, CITY CLERK Chief Deputy PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of April, 1984, at the hour of 11:30 o'clock A .M., E.S.T.

Nadejda Esleroff
SANDRA E. KENNEDY, CITY CLERK
Chief Deputy
Approved and signed by me this 26th day of April, 1984, at the hour of 2 o'clock P .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

77-15-11
4-2-84

A G R E E M E N T

F O R

S E W E R C O N S T R U C T I O N

THIS AGREEMENT, MADE IN TRIPLICATE THIS 28th day of March 1984, by and between LITTLE TURTLE TERRITORIES, INC. an Indiana Corporation, hereinafter referred to "OWNER" AND THE CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "CITY," WITNESSETH:

WHEREAS, THE "OWNER" desires to construct a local sanitary sewer described as follows:

Commencing at an existing manhole in Choctaw Pass at the eastline of Lot 19 in FALLEN TIMBERS SEC, "A"; thence, north 110± feet to MH#1; thence westerly in a 10' SANITARY SEWER EASEMENT north and adjacent to STOCKADE DRIVE, a distance of 345± feet terminating at a proposed MH#2

all in accordance with plans, specifications and profiles heretofore submitted to and approved by "CITY" and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department of "CITY" and known as FALLEN TIMBERS SECTION "C" as drawn by TURNBELL ENGINEERING CO., INC. under their Commission Number E83-1427 dated Sept. 20, 1983 which plans, specifications, profiles are by reference incorporated herein and made a part hereof:

WHEREAS, the cost of construction of said sewer is represented to be \$11,891.00.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

"OWNER" shall cause said sewer to be constructed and located in accordance with said plans, specifications and profiles, all approved by "CITY" under private contract to be let within sixty (60) days after requisite "CITY" approval.

All work and materials shall be subject to inspection by "CITY" and the right of "CITY" to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed completed and/or permanently connected into the sewer system of "CITY" until final acceptance by "CITY". Upon acceptance by "CITY" said sewer shall become the property of "CITY" and "CITY" shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by "CITY", and all further maintenance thereafter shall be borne by "CITY."

2. COST OF CONSTRUCTION

"OWNER" agrees to pay the entire cost and expense of construction of said sewer, in cash, including "CITY" engineering and inspection fees, and to hold "CITY" harmless from any liability for claims connected therewith.

3. AREA OF "OWNER"

Said sewer when accepted by the "CITY" will serve the following described real estate:

LEGAL DESCRIPTION FOR FALLEN TIMBERS, SECTION "C"
A SUBDIVISION IN THE NORTHWEST QUARTER OF
SECTION I, TOWNSHIP 31 NORTH,
RANGE 12 EAST, ALLEN COUNTY, INDIANA

A part of the Northwest quarter or Section I, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows: Beginning at the Southwest corner of lot number 20 in Fallen Timbers, Section "B", a subdivision in the Northwest quarter of Section I, Township 31 North, Range 12 East as recorded in plat book 40, pages 46-50 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 56 minutes 30 seconds West along the North line of Fallen Timbers, Section "A", a subdivision in the Northwest quarter of Section I, Township 31 North, Range 12 East, as recorded in plat book 37, pages 59-60 in the Office of the Recorder of Allen County, Indiana, a distance of 669.93 feet to the Easterly-most corner of lot number 26 in the aforesaid Fallen Timbers, Section "B"; thence departing from the North line of Fallen Timbers, Section "A", North 15 degrees 00 minutes 00 seconds West along the Easterly boundary of lots 26 and 49 in Fallen Timbers, Section "B", a distance of 255.66 feet to a point on the Northerlymost boundary of said Fallen Timbers Section "B"; thence departing from the Easterly boundary of said lots 26 and 49, North 89 degrees 56 minutes 30 seconds East a distance of 735.84 feet to the Northwest corner of the aforementioned lot number 20 in Fallen Timbers, Section "B"; thence South 00 degrees 03 minutes 30 seconds East along the West line of said lot 20 a distance of 247.01 feet to the point of beginning containing 3.99 more or less

As "OWNER" will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by "CITY" for connections to "CITY" sewer mains and treatment of sewage therefrom.

4. AREA CONNECTION CHARGE (Oversizing, etc. cost of existing sewage works)

An area connection charge of \$700.00 per acre must be paid to "CITY" at the time of connection. This area connection charge represents the installation and/or oversizing cost expended by "CITY" for sewer line(s) known as Saint Joe Study Area.

5. BOND

This contract is subject to "OWNER" and/or his contractor furnishing a satisfactory Performance and Guaranty Bond for 25% of the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by "CITY."

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste in accordance with City Municipal Code.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

"OWNER," for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce "CITY" to execute and ratify this contract, said "OWNER," for himself, his successors and assigns, agrees by this contract to vest in "CITY" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

"OWNER" further agrees that any deeds, contracts, or other instruments of conveyance made by "OWNER," its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article which provisions shall run with the land and the acceptance of the delivery of any such instruments from "OWNER," his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

"OWNER" further agrees to record an executed copy of this contract in

Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of such land or of the territory in which it is located or of the area served by said sewer. (I.C. 36-9-22-2, as added by Acts 1981, P.L. 308,395).

8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly appointed Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

SEAL

ATTEST:

Helen Gochenour
Helen Gochenour, Clerk

APPROVED AS TO FORM AND LEGALITY:

Polhemus
Assoc. City Attorney
NOTARY PUBLIC

STATE OF INDIANA:

SS:

COUNTY OF ALLEN:

"OWNER"

Robert E. Henninger
Robert E. Henninger, President

Richard Hersha
Richard Hersha, Secretary

"CITY"
MAYOR

Win Moses, Jr.
Win Moses, Jr.,

BOARD OF PUBLIC WORKS

BY: David J. Kiester
David J. Kiester, Chairman

BY: Betty R. Collins
Betty R. Collins, Member

BY: Frank W. Heyman
Frank W. Heyman, Member

Before me, the undersigned, a Notary Public in and for said County and

State, personally appeared Robert E. Henninger and Richard Hersha
who acknowledged the execution of the foregoing agreement for sewer extension,
as and for his voluntary act and deed for the uses and purposes therein
contained.

WITNESS my hand and notarial seal this 29th day of March,
1984.

Charles I Wickensheimer
Notary Public
Resident of Allen County

My Commission Expires:

CHARLES I WICKENSHEIMER
NOTARY PUBLIC STATE OF INDIANA
ALLEN CO
MY COMMISSION EXPIRES OCT 30 1983
ISSUED THRU INDIANA NOTARY ASSOC.

STATE OF INDIANA:

SS:

COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public in and for said County and
State, personally appeared Win Moses, Jr., David J. Kiester, Betty R. Collins
who acknowledged the execution of the foregoing agreement for sewer extension
as and for his voluntary act and deed for the uses and purposes therein
contained.

WITNESS my hand and notarial seal this 28th day of March,
1984.

L. Settimi McMahon
Notary Public
Resident of Allen County

My Commission Expires:

L. SETTIMI McMAHON
NOTARY PUBLIC STATE OF INDIANA
ALLEN CO.
MY COMMISSION EXPIRES MARCH 2, 1983
ISSUED THRU INDIANA NOTARY ASSOC.

This instrument prepared by
C. Duane Embury, P.E.,
Chief Water Pollution Control Engineer

BILL NO. S-84-04-12

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN
ORDINANCE approving an Agreement by and between Little Territories,
Inc., and the City of Fort Wayne, Indiana, in connection with the
Board of Public Works, for Fallen Timbers Section "C" Sanitary
Sewer Extension

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

THOMAS C. HENRY, CHAIRMAN

MARK E. GIAQUINTA, VICE CHAIRMAN

CHARLES B. REDD

JAMES S. STIER

DONALD J. SCHMIDT

CONCURRED IN 4-24-84

SANDRA E. KENNEDY, CITY CLERK

0000 Admin. Appl. 1
TITLE OF ORDINANCE Agreement between Little Territories and City for Fallen Timbers
Sec. "C" Sanitary Sewer Extension
DEPARTMENT REQUESTING ORDINANCE Board of Public Works S-84-04-13

SYNOPSIS OF ORDINANCE The agreement between Little Territories, Inc. and the City
of Fort Wayne, Indiana has signed. This sanitary sewer extension is more specifically
described below.

Commencing at an existing manhole in Choctaw Pass at the east line of Lot 19 in Fallen
Timbers Sec. "A"; thence, north 110+ feet to MH #1; thence westerly a 10' sanitary
sewer easement north and adjacent to Stockade Drive, a distance of 345+ feet terminatin
at a proposed MH #2.

PRIOR APPROVAL
4/10/84

EFFECT OF PASSAGE Sanitary Sewer to serve above location.

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) No cost to City

ASSIGNED TO COMMITTEE _____